

# **15 FAM 400 REAL PROPERTY ACQUISITION ABROAD**

## **15 FAM 410 GENERAL POLICY AND SCOPE**

*(CT:OBO-10; 08-24-2006)  
(Office of Origin: OBO)*

### **15 FAM 411 AUTHORITY AND SCOPE**

#### **15 FAM 411.1 Authority**

*(CT:OBO-1; 04-29-2005)  
(Uniform State/USAID/Commerce/Agriculture/DIA)*

The Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292 - 302), and the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2396).

#### **15 FAM 411.2 Scope**

*(CT:OBO-10; 08-24-2006)  
(Uniform State/USAID/Commerce/Agriculture/DIA)*

This subchapter applies to the acquisition of real property abroad, in the United States *Government's name*. *It encompasses purchases, exchanges, gifts, and long-term leases (LTLs)*, for use as office, functional, and/or residential space by the Department of State, the Foreign Affairs Agencies, and other U.S. Government agencies represented at post and their employees. LTLs are treated as acquisitions for purposes of programming, authorization, and funding; however, the leasing regulations of 15 FAM 300 govern the documentation required for LTL proposals and lease *contracts*. *See 15 FAM 432 through 15 FAM 460 for procedures to implement these regulations. Direct any questions or comments on these regulations or procedures to the Real Estate Office in the Bureau of Overseas Buildings Operations (OBO/RE) for State or the Overseas Management Staff in the Bureau for Management, USAID/Washington (USAID/W - M/OMS) for USAID.*

## 15 FAM 412 POLICY

### 15 FAM 412.1 General

(CT:OBO-10; 08-24-2006)

(Uniform State/USAID/Commerce/Agriculture/DIA)

- a. U.S. Government-owned property allows the post stability, flexibility, and cost control. However, *purchasing property requires* large initial outlays of funds, *so the Department must weigh carefully* the benefits of leasing versus purchasing.
- b. Only the Department of State and the U.S. Agency for International Development (USAID) are authorized to buy real property abroad for diplomatic use. Posts *must* not take independent action on real property acquisition matters. The Bureau of Overseas Buildings Operations (OBO) or the Overseas Management *Staff* in the Bureau for Management, USAID/Washington (USAID/W - M/OMS) must oversee all *real property acquisition* negotiations.

### 15 FAM 412.2 Residences with Swimming Pools

(CT:OBO-10; 08-24-2006)

(Uniform State/USAID/Commerce/Agriculture/DIA)

- a. Except as noted herein, the Department of State neither constructs nor acquires residences with swimming pools:
  - (1) The Department may purchase or construct residences with swimming pools for the use of *ambassadors*, deputy *chiefs* of mission (*DCMs*), *consuls* general (*CGs*) principal *officers* (*POs*), and Marine security guards;
  - (2) *Posts* may recommend purchase of a residential property with a swimming pool *if appropriate* residential properties come equipped with swimming pools as a result of the country's climate, culture, or other factors.
- b. Posts recommending purchase of a residential property with a pool must provide justification (see 15 FAM 432.2). The decision to purchase *must* be based on a financial analysis that takes into consideration the appraised value, comparable prices for similar properties (with and without pools), and the present value of the property versus rental cost.
- c. Posts *will* not require owners to install swimming pools as a condition of or prerequisite to purchase. Installation of a swimming pool is considered a minor improvement subject to the policy and procedures of 15 FAM 600.

- d. All pools at Department of State residences must have at least a four-foot fence or other barrier surrounding the entire pool and separating pools from residences. The gate must be self-closing, self-latching, and lockable; the latch must be at least 4.5 feet off the ground (an extension of the gate or a gate that is higher than the surrounding barrier may be required).

## 15 FAM 412.3 USAID Acquisition of Property

(CT:OBO-10; 08-24-2006)  
(USAID only)

Section 636(c) of the Foreign Assistance Act of 1961 *authorizes USAID* to purchase, construct, or long-term lease living quarters, office space, and necessary supporting facilities when a USAID mission cannot *meet its basic requirements by* short-term leasing or by use of U.S. or cooperating-country government property available to USAID. (See 15 FAM 460 for conditions and limitations on USAID authority.)

## 15 FAM 412.4 Purchase Agreements

(CT:OBO-10; 08-24-2006)  
(Uniform State/USAID/Commerce/Agriculture/DIA)

When the Bureau of Overseas Buildings Operations (OBO) or the Overseas Management Staff in the Bureau for Management, USAID/Washington (USAID/W - M/OMS) *authorizes the* purchase *of* real property, post *must* prepare a written agreement that may consist of a *sales contract* or, subject to local law, a *purchase* option. OBO *and L/BA* or USAID/W (M/OMS) *must review and approve all* such agreements prior to execution.

### 15 FAM 412.4-1 Required Provisions for Purchase Agreements

(CT:OBO-10; 08-24-2006)  
(Uniform State/USAID/Commerce/Agriculture/DIA)

*15 FAM 442 covers the requirements and guidelines for purchase agreements.* Whether arising out of a formal sales *contract* or out of an option and exercise of the option, the purchase agreement must conform to *these* requirements.

### 15 FAM 412.4-2 Special Rights

(CT:OBO-10; 08-24-2006)  
(Uniform State/USAID/Commerce/Agriculture/DIA)

- a. If a stream of water runs through *a* property, post must investigate the

water rights and obtain the legal right to the permanent flow of water.

- b. If necessary and useful *under* local law, post should obtain *the local authorities'* written confirmation that the property will not be subject to the extension of any streets through, or encroachments upon, the property after its purchase.
- c. *The deed or other instrument should convey any* other special rights, simultaneously with the transfer of title.

### **15 FAM 412.4-3 Payment**

*(CT:OBO-10; 08-24-2006)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

- a. *Unless OBO or USAID/W (M/OMS) authorizes otherwise, post should pay the* purchase price and the fees for any other incidental expenses, such as water rights, *when the title transfer is complete.*
- b. Offshore payments for the acquisition of real property require *an OBO* waiver.

### **15 FAM 412.4-4 Acquisitions by Gift**

*(CT:OBO-10; 08-24-2006)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

*Posts must report all gift offers to OBO/RE or USAID/W (M/OMS) and may not accept any gifts without prior approval (see 15 FAM 443). Gifts include* real property, improvements to real property, furniture, furnishings, equipment, stocks, bonds, or other valuables offered to the U.S. Government for the purpose of supporting the U.S. Government's foreign buildings and properties program.

### **15 FAM 412.5 Documents and Records**

*(CT:OBO-10; 08-24-2006)*

*(Uniform State/USAID/Commerce/Agriculture/DIA)*

*Posts must maintain and/or submit to OBO or USAID/W (M/OMS) documents and records relating to real property acquisitions. See 15 FAM 450. Posts will place all pertinent Real Property Application (RPA) data in the RPA data base as soon as the purchase agreement is consummated.*

## **15 FAM 413 THROUGH 419 UNASSIGNED**